

EXHIBIT 1

IN THE CIRCUIT OF MCDOWELL WEST VIRGINIA
Dale P. Field Jr. v. Phillip Morris USA, Inc.

Service Type: Circuit Clerk - Certified Mail - No Copy Fee

NOTICE TO: Phillip Morris USA, Inc., 6598 West Broad St., Richmond, VA 26234

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Dale P. Field Jr., Stevens Correctional Center, 795 Virginia Ave., Welch, WV 24801

THE ANSWER MUST BE MAILED WITHIN 20 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

3/8/2021 2:34:42 PM

Date

/s/ Francine Spencer

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ Not Found in Bailiwick

Date

Server's Signature

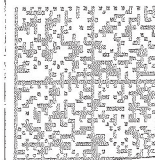
FRANCINE SPENCER
CLERK OF THE CIRCUIT COURT
90 WYO. ST. SUITE 201
WELCH WV 24801

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7014 2470 0000



U.S. POSTAGE PITNEY BOWES



ZIP 24801 \$ 007.36⁰
02 4W
MAR 08 2021

TRACK ID



286711

Trk #: 70142870000236122290
Full Name: Williams, Alvin
Building: HQ
Depart: Corp Facilities and Real Es
Notes:
Date Rec'd: 3/22/2021 8:08:04 AM

23261

CC-27-2021-C-12
McDowell County Circuit Clerk
Francine Spencer

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Philip Morris USA, Inc.
6898 West Broad St.
Richmond, VA 2324



9590 9402 5857 0038 0718 08

2. Article Number (Transfer from service label)
7014 2870 0002 3612 2290

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *Brian Person* ☐ Agent ☐ Addressee
B. Received by (Printed Name) *Brian Person* C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
- | | |
|--|---|
| <input checked="" type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Registered Mail Restricted Delivery (\$500) | |

USPS TRACKING#

Case 1:21-cv-00218 Document 1-1 Filed 04/12/21 Page 5 of 21 PageID #: 9



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 5857 0038 0718 08

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

FRANCINE SPENCER
CLERK OF THE CIRCUIT COURT
90 WYO. ST. SUITE 201
WELCH WV 24801

21-C-12-m



FILED | 3/8/2021 2:34 PM

CC-27-2021-C-12

McDowell County Circuit Clerk

Francine Spencer

IN THE CIRCUIT COURT OF MCDOWELL**CIVIL CASE INFORMATION STATEMENT**
(Civil Cases Other than Domestic Relations)**I. CASE STYLE:**

Case No. _____

Plaintiff(s)

Judge: _____

DALE P. FIELD, JR.

Plaintiff's Phone: _____

vs.

Defendant(s)

Days to

Answer

Type of Service

Phillip Morris, USA, Inc30Certified US Mail

Name

6598 West Broad St.

Defendant's Phone: _____

Street Address

Richmond, VA 26234

City, State, Zip Code

II. TYPE OF CASE:

- ☒ General Civil
- ☐ Mass Litigation [As defined in T.C.R. 26.04(a)]
- ☐ Asbestos
- ☐ FELA Asbestos
- ☐ Other: _____
- ☐ Habeas Corpus/Other Extraordinary Writ
- ☐ Other: _____

- ☐ Adoption
- ☐ Administrative Agency Appeal
- ☐ Civil Appeal from Magistrate Court
- ☐ Miscellaneous Civil Petition
- ☐ Mental Hygiene
- ☐ Guardianship
- ☐ Medical Malpractice

III. JURY DEMAND: ☒ Yes ☐ No CASE WILL BE READY FOR TRIAL BY (Month/Year): _____**IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS?**☒ Yes ☐ No**IF YES, PLEASE SPECIFY:**

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Interpreter or other auxiliary aid for the deaf and hard of hearing
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Foreign language interpreter-specify language: _____
- ☒ Other: Video /Tele conference hearings

Attorney Name: _____

Representing:

Firm: _____

☐ Plaintiff☐ Defendant

Address: _____

☐ Cross-Defendant☐ Cross-Complainant

Telephone: _____

☐ 3rd-Party Plaintiff☐ 3rd-Party Defendant☐ Proceeding Without an Attorney

Original and _____ copies of complaint enclosed/attached.

Dated: 3 / 3 / 2021Signature: [Signature]

Plaintiff: _____, *et al* **Case Number:** _____
vs.
Defendant: _____, *et al*

**CIVIL CASE INFORMATION STATEMENT
DEFENDANT(S) CONTINUATION PAGE**

Defendant's Name _____	Defendant's Phone: _____
Street Address _____	Days to Answer: _____
City, State, Zip Code _____	Type of Service: _____

Defendant's Name _____	Defendant's Phone: _____
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COVER SHEET**GENERAL INFORMATION**

IN THE CIRCUIT COURT OF MCDOWELL COUNTY WEST VIRGINIA

Dale P. Field Jr. v. Phillip Morris USA, Inc.**First Plaintiff:**☐ Business ☒ Individual
☐ Government ☐ Other**First Defendant:**☒ Business ☐ Individual
☐ Government ☐ Other**Judge:**

Rudolph Murensky

COMPLAINT INFORMATION**Case Type:** Civil**Complaint Type:** Other**Origin:** ☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court**Jury Trial Requested:** ☒ Yes ☐ No**Case will be ready for trial by:** _____**Mediation Requested:** ☐ Yes ☒ No**Substantial Hardship Requested:** ☒ Yes ☐ No☒ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☒ Other: Video/Tele conference hearings

☒ I am proceeding without an attorney☐ I have an attorney: _____

SERVED PARTIES

Name: Phillip Morris USA, Inc.

Address: 6598 West Broad St., Richmond VA 26234

Days to Answer: 20 **Type of Service:** Circuit Clerk - Certified Mail - No Copy Fee

IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA

DALE P. FIELD, JR.,
Stevens Correctional Center
795 Virginia Ave.
Welch, WV 24801

Plaintiff,

Case No. _____

v.

PHILLIP MORRIS, USA, INC.,
6598 West Broad St.
Richmond, VA 26234

Defendant.

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Now comes the Plaintiff, Dale P. Field, Jr., and does hereby set forth the following in his complaint against the Defendant.

JURISDICTION

In accordance with West Virginia Law, Phillip Morris, USA, Inc. does consistent business within the State, giving the Circuit Court of the county for which the Plaintiff resides jurisdiction over the matter.

CLAIMS

Count 1: Negligence

The Defendant did engage in acts of negligence when the tobacco product manufacturer knowingly and willingly used additives in their products to make said product more addictive to the user (Plaintiff) for the sole purpose of profit and with complete disregard to the health ramifications of the consumer. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 2: Negligent design, testing or manufacturing

The Defendant was negligent in the design, testing or manufacturing of their product when the design intentionally included additives that were used for the sole purpose of making the product more addictive to the consumer without concern for the health ramifications, and without notifying the Plaintiff of the use of the additives which intentionally caused more harm to the Plaintiff. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 3: Misrepresentation

The Defendant did engage in acts of misrepresentation by producing, marketing and distributing a product under the guise that the effects of the additives were nothing more than the effects of the raw tobacco, having done so for the sole purpose of profit with malice and disregard to the health and safety of Plaintiff and without notification prior to the year 2018. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 4: Product defect, Defective design

The Defendant designed the product in a manner to increase profit and with little to no concern

of the health and safety ramifications of the public, namely the Plaintiff. In this manner, the Defendant deliberately designed the product to be more harmful and defective without the notification to the public prior to 2018. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 5: Product defect, Failure to warn

The Defendant failed to warn the public prior to 2018 of the harmful use of the product due to the additives making the product more addictive for the sole purpose of profit and with disregard to the health and safety of the public. The Defendant concerned themselves with profit, ignoring the defective side effects of health issues that were increased by the additives use. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 6: Breach of Express Warranty

Defendant described the product as being tobacco, and failed to alert the public of the use of harmful additives that made the product more addictive. This led to the the public and the Plaintiff to believe that the source of the addiction was related to the raw tobacco. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 7: Fraudulent Concealment

Defendant fraudulantly concealed the use of additives that made their product more addictive, and more harmful to the public. This deliberate means of misleading the Plaintiff with callous disregard to the Plaintiff's health for the sole purpose of profit was done without warning prior to 2018.

Count 8: Advertising Injury

The Defendant did engage in acts of advertising injury by marketing a product in a manner that discloses only partial information and omitting facts about the health issues and ramifications of the additional additives that were concealed by the Defendant prior to 2018. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 9: Moral Wrong

The Defendant used harmful additives to a product intentionally and then fraudulantly marketed that product without notification of the additives effects against moral standards. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 10: Intentional Wrong

The Defendant did engage in acts that were intentional by addition of the additives to the product and then intentionally concealing the use of that product. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 11: Harmful Behavior

The Defendant added additives to their product intentionally causing harm to the Plaintiff. The Defendant was aware of the harm that the product caused to the public and posted no warning of such harm or of the product being used. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 12, 13, and 14: Bodily Harm; Physical Harm; Continuing Harm

As counts 12, 13, and 14 are related, Plaintiff has combined them under the same heading.

The Defendant caused bodily, physical and continuing harm to the Plaintiff by creating and distributing a product that was intentionally designed to become addictive by the use of additives, knowing the health ramifications of the use of the product by the Plaintiff. Plaintiff has suffered damages to his lungs that result in a decreased capacity of lung volume usage. This damage is the onset of further damage that is far greater. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 15: Irreparable Injury

Defendant created a product that caused harm to the Plaintiff's lungs that cannot be repaired. This created a unique situation as Plaintiff attempted to apply to school for commercial SCUBA diving, and was unable to pass the physical for lung volume. For this reason alone, Plaintiff was denied classes and a career of his choosing. The damage was directly related to the product distributed by the Defendants, and the damage cannot be undone in order satisfy the lung tests. This was done for the sole purpose of profit and with total disregard to the health and safety of the public.

Count 16: Entitlement to Punitive Damages

In this matter, the Plaintiff is entitled to punitive damages. The direct misleading of the Defendant led Plaintiff to believe it was his own lack of self control or inadequacy that prevented him from stopping the use of the product. It has since been discovered that the Defendant deliberately

made the product in a way to mislead the Plaintiff for the sole purpose of profit. This was done for the sole purpose of profit and with total disregard to the health and safety of the Plaintiff.

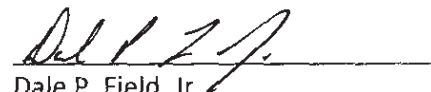
For this reason, the Plaintiff believes that he is entitled to punitive damages in this matter.

CONCLUSION

The defendant has recently been directed by the U.S. Supreme Court to make known to the public the use of additives for addictiveness in their product. The plaintiff files a timely complaint in that the complaint is filed within the time frame of the statute of limitations from the dismissal of this case by the U.S. District Court without prejudice.

- A. Plaintiff seeks a jury trial in this matter;
- B. Plaintiff reserves the right to add additional claims and/or parties if discovery reveals a need to do so, and with the leave of this Honorable Court;
- C. Plaintiff seeks monetary damages in the amount of two million dollars (\$2,000,000.00) and the amount of fifty thousand dollars (\$50,000.00) in punitive damages;
- D. Plaintiff seeks interest, court costs, filing fees, attorney fees and any additional costs that this Honorable Court deems proper.

Respectfully submitted;



Dale P. Field, Jr.
Plaintiff, pro se
Stevens Correctional Center
795 Virginia Ave.
Welch, WV 24801

FILED | 3/8/2021 2:34 PM

CC-27-2021-C-12

McDowell County Circuit Clerk

Francine Spencer

IN THE CIRCUIT COURT OF MCDOWELL**CIVIL CASE INFORMATION STATEMENT**
(Civil Cases Other than Domestic Relations)**I. CASE STYLE:**

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Judge: _____

DALE P. FIELD, JR.

Plaintiff's Phone: _____

vs.

Defendant(s)

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Phillip Morris, USA, Inc30Certified US Mail

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Defendant's Phone: _____

Street Address

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City, State, Zip Code

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OR WITNESSES
IN THIS CASE
REQUIRE SPECIAL
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- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Foreign language interpreter-specify language: _____
- ☒ Other: Video /Tele conference hearings

Attorney Name: _____

Representing:

Firm: _____

☐ Plaintiff ☐ Defendant

Address: _____

☐ Cross-Defendant ☐ Cross-Complainant

Telephone: _____

☐ 3rd-Party Plaintiff ☐ 3rd-Party Defendant☐ Proceeding Without an Attorney

Original and _____ copies of complaint enclosed/attached.

Dated: 3 / 3 / 2021Signature: [Signature]

Plaintiff: _____, *et al* **Case Number:** _____
vs.
Defendant: _____, *et al*

**CIVIL CASE INFORMATION STATEMENT
DEFENDANT(S) CONTINUATION PAGE**

Defendant's Name _____	Defendant's Phone: _____
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City, State, Zip Code _____	Type of Service: _____

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Street Address _____	Days to Answer: _____
City, State, Zip Code _____	Type of Service: _____

Court: **Circuit** Case 1:21-cv-00218 Document 1-1 Filed 04/12/21 Page 18 of 21 PageID #: 22
 Judge: **Rudolph Murensky** County: **27 - McDowell** Case Number: **Case 1:21-cv-00218**
 Case Type: **Civil** Created Date: **3/8/2021** Status: **Open**
 Style: **Dale P. Field Jr. v. Phillip Morris USA, Inc.** Case Sub-Type: **Other** Security Level: **Public**

	Entered Date	Event	Ref. Code	Description
1	3/8/2021 2:37:37 PM	E-Docketed		Complaint
2	3/8/2021 2:37:37 PM	Judge Assigned	J-27001	Rudolph Murensky
3	3/8/2021 2:37:37 PM	Party Added	P-001	Dale P. Field, Jr.
4	3/8/2021 2:37:37 PM	Party Added	D-001	Phillip Morris USA, Inc.
5	3/8/2021 2:37:37 PM	Service Requested	D-001	Circuit Clerk - Certified Mail - No Copy Fee
6	3/31/2021 9:43:50 AM	Attorney Listed	D-001	A-12542 - Jeremy Alexander Gunn
7	3/31/2021 9:47:08 AM	Document Emailed		Court user emailed jgunn@shb.com document 1-1 - Civil Case Information Statement -
8	3/31/2021 9:47:23 AM	Document Emailed		Court user emailed jgunn@shb.com document 1-2 - Complaint - Complaint
9	3/31/2021 9:47:43 AM	Document Emailed		Court user emailed jgunn@shb.com document 1-3 - Affidavit of Indigency - Financial Affidavit and Application: Eligibility For Waiver of Fees, Costs, or Security in a Civil or Domestic Case or For Costs Associated With Required Polygraph Examination or Electronic Monitoring
10	3/31/2021 9:48:06 AM	Document Emailed		Court user emailed jgunn@shb.com document 1-4 - Supporting Document - Civil Case Information Statement
11	3/31/2021 9:48:30 AM	Document Emailed		Court user emailed jgunn@shb.com document 1-6 - Summons -
12	3/31/2021 11:02:24 AM	Scanned Document		Certified Mail Tracking - Certified Mail Receipt
13	4/7/2021 9:20:29 AM	E-Docketed		Supporting Documents - Green Return Receipt Card As To: Phillip Morris, USA Inc Signed by Brian Pearson (No Date)
14	4/12/2021 10:22:37 AM	Scanned Document		Other - Docket Sheet

EXHIBIT 2

**IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA
CIVIL DIVISION**

Dale P. Field, Jr.,

Plaintiff,

vs.

Philip Morris USA Inc.,

Defendant.

Civil Action No. CC-27-2021-C-12

The Honorable Rudolph Murensky

NOTICE OF FILING OF NOTICE OF REMOVAL

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Philip Morris USA Inc. has on the 12th day of April, 2021 filed with the Clerk of the United States District Court for the Southern District of West Virginia, Bluefield Division, a Notice of Removal to remove Civil Action No. CC-27-2021-C-12 from the Circuit Court of McDowell County, West Virginia to the United States District Court for the Southern District of West Virginia, Bluefield, Division. A copy of the Notice of Removal is attached hereto as Exhibit 1.

Dated: April 12, 2021

Respectfully submitted,

By: 

Jeremy Gunn (WV State Bar #12542)

jgunn@shb.com

SHOOK, HARDY & BACON L.L.P.

2001 Market St. #3000

Philadelphia, PA 19103

Telephone: (215) 278-2555


Facsimile: (215) 278-2594

Attorneys for Defendant Philip Morris USA Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2021, that the foregoing *Notice of Filing of Notice of Removal* was served on counsel of record by placing a true and exact copy in certified mail, addressed to the following:

Dale Field, Jr., #3558053
Steven's Correctional Center
795 Virginia Avenue
Welch, WV 24801

By 

Jeremy Gunn (WV State Bar #12542)
jgunn@shb.com
SHOOK, HARDY & BACON L.L.P.
2001 Market St. #3000
Philadelphia, PA 19103
Telephone: (215) 278-2555
Facsimile: (215) 278-2594

Attorneys for Defendant Philip Morris USA Inc.